

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NEVIN P. COOPER-KEEL,

Plaintiff,

v.

COUNTY OF ALLEGAN, et al.,

Defendants.

Case No. 1:21-cv-203

HON. JANET T. NEFF

_____ /

OPINION AND ORDER

Plaintiff initiated this action alleging seven counts arising from his divorce and child custody proceedings in state court. Defendants filed a motion to dismiss, arguing that the claims should be dismissed under FED. R. CIV. P. 12(b) based on Plaintiff's state-court proceedings, Defendants' available immunity, and the lack of involvement of Allegan County in the events at issue. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court grant the motion and dismiss the federal claims with prejudice and dismiss the state-law claims without prejudice. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation, to which Defendants filed a response in opposition. Plaintiff has also since filed a motion to amend his Complaint, to which Defendants filed a response in opposition. For the following reasons, the Court denies the objections and denies the motion. Because this Opinion and Order resolves all pending claims, a Judgment will also be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which Plaintiff makes objection. In his objections, Plaintiff expresses his disagreement with the immunity doctrine but fails to demonstrate any error in the Magistrate Judge's analysis, which is well grounded in binding precedent. Consequently, as Defendants more thoroughly set forth (ECF No. 26 at PageID.282-283; ECF No. 24), even if there was merit in Plaintiff's remaining arguments related to notice and an alleged lack of service, arguments that are contained in his objections and repeated in a "motion for default judgment" (ECF No. 21), the arguments would not compel a different result in this case. *See Lewis v. Casey*, 518 U.S. 343, 353 n.3 (1996) ("Depriving someone of a frivolous claim ... deprives him of nothing at all, except perhaps the punishment of Federal Rule of Civil Procedure 11 sanctions."). Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court.

Plaintiff's motion for leave to amend his Complaint is properly denied inasmuch as Plaintiff did not supply the Court with a copy of his proposed amended pleading as required by W.D. Mich. LCivR 5.7(f).¹ Even assuming arguendo that this Court could properly evaluate his proposed claims merely from the vague descriptions he includes of them in his motion, leave would also nonetheless be properly denied because Plaintiff does not address the fatal shortcomings delineated in the Magistrate Judge's Report and Recommendation. *See Crawford v. Roane*, 53 F. 3d 750, 753 (6th Cir. 1995) (instructing courts to deny motions to amend "if the amendment ... would be futile") (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)); *Rose v. Hartford*

¹ Defendants point out that Plaintiff also failed to comply with W.D. Mich. LCivR 7.1(d), which requires movants to seek concurrence from opposing counsel before filing a motion.

Underwriters Ins. Co., 203 F. 3d 417, 420 (6th Cir. 2000) (“A proposed amendment is futile if the amendment could not withstand a Rule 12(b)(6) motion to dismiss.”).

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 22) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 20) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants’ Motion to Dismiss (ECF No. 11) is GRANTED to the extent that Plaintiff’s federal claims are DISMISSED WITH PREJUDICE, for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED, pursuant to 28 U.S.C. § 1367(c)(3), that this Court declines to exercise supplemental jurisdiction over Plaintiff’s state-law claims, which are DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Default Judgment (ECF No. 21) is DENIED.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Leave to Amend (ECF No. 28) is DENIED.

Dated: October 5, 2021

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge